

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

Wildade Nelson  
22 Kessler Farm Dr.  
Suite 659  
Nashua, New Hampshire 03063

CASE NO: \_\_\_\_\_

JUDGE \_\_\_\_\_

Plaintiff,

v.

JURY DEMAND

Joanne McGann  
In All Capacities,  
and  
The Commonwealth of Massachusetts  
Department of Health and Human Svcs.,  
Department of Mental Retardation  
500 Harrison Avenue  
Boston, Massachusetts 02118

**05 - 11269 NG**

*Referred to MJ J6 Dein*

Defendants.

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COMPLAINT OF PLAINTIFF, WILDADE NELSON

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**PARTIES AND RELEVANT BACKGROUND**

1. Plaintiff is a Haitian-born woman currently residing in New Hampshire and working for Defendant at all times relevant to this Action.
2. Defendants are a duly-chartered state-owned and managed facility providing housing and other services for developmentally-challenged individuals and a certain manager by the name of Joanne McGann, who was employed at all relevant times by Defendant.
3. Plaintiff was hired in January, 2001 as a Mental Retardation Social Worker 1.

4. She commenced her employment at the central unit located at 450 Maple Street in Danvers, and remained there for nine (9) months, at which time she was sent to the Billerica facility.
5. Plaintiff served at the Billerica Facility for nine (9) more months, when she was transferred to the Tyngsboro facility.
6. Plaintiff received generally positive work reviews and was not subject to progressive discipline until Joanne McGann became her manager.
7. Plaintiff has sworn under Oath, and will again swear under Oath, that Ms. McGann called her “a stinking nigger” and told her she would not be returning to the Tyngsboro facility. See Plaintiff’s successful New Hampshire Unemployment application. **Attachment 1.**
8. Prior to such statement, but while still subject to the control of Defendant McGann, Plaintiff was subject to a series of bogus disciplinary charges including, but certainly not limited to:
  - a. improperly notifying a supervisor when a guardian wanted to remove a resident from the premises;
  - b. improperly failing to evacuate the entire building after some gravy she was cooking spilled over and burned in the oven, when other non-Haitian employee was not punished for the same alleged offense and Plaintiff directly heard Defendant McGann call the other person, who would later falsely claim that Plaintiff assaulted her, “the fire lady” because of the accident;
  - c. yelling at an unidentified man who arrived at a residence late at night and demanded to be let in;
  - d. actually assaulting another employee not of Haitian background, although there was absolutely no police call ever made to document this alleged assault, no evidence of any injuries, and Plaintiff was allowed to continue to finish her entire shift, even though she would have fairly been considered a dangerous instrumentality if she had truly assaulted anyone.

9. Defendant McGann also assigned Plaintiff to more dangerous shifts and areas, and did further assign Plaintiff to a work area that was inappropriate for her condition after she returned from internal surgery with a physician's statement that clearly stated she should not be involved in heavy lifting.
10. Defendant McGann, acting under Color of Law and in her Individual Capacity, did further cause Plaintiff to be suspended from work for a six (6) month period without pay.
11. Plaintiff filed internal complaints with the agency that never received any substantive response, in violation of Substantive and Procedural Due Process rubrics.
12. Defendants terminated Plaintiff's employment. In terminating Plaintiff's employment, Defendants failed to properly contact the appropriate union officials and did further fail to follow their own internal hearing and other procedural guidelines, further denying Plaintiff Substantive and procedural Due Process of Law.
13. Plaintiff appropriately filed and dismissed her action before the Massachusetts Commission Against Discrimination prior to filing suit in this Honorable Court.
14. Several other employees who witnessed Plaintiff's treatment at the hands of Defendants came forward to help Plaintiff prepare her internal and MCAD complaints because they noticed that she, as a Haitian woman, was being denied equal protection under the laws.
15. As the (in)actions of Defendants clearly shock the conscience of reasonable persons, Plaintiff was foreseeably injured and did seek treatment for her injuries.

### **CLAIMS**

1. 42 U.S. Code 2000(e) – unlawful treatment by race, ethnicity and national origin.
2. M.G.L. 151(B) – wrongful discharge; unlawful contractual treatment and terms and conditions of employment by race, ethnicity and national origin.
3. 14<sup>th</sup> Amendment/42 U.S.C. 1983 – Denial of Substantive Due Process Rights.
4. 14<sup>th</sup> Amendment/42 U.S.C. 1983 – Denial of Procedural Due Process Rights.
5. Negligent infliction of emotional distress.
6. Intentional infliction of emotional distress.

### **DEMANDS**

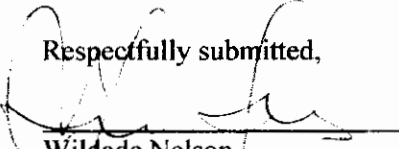
Plaintiff hereby demands:

1. Reinstatement with any and all lost benefits.
2. Not less than \$25,000.00 in compensatory damages.
3. Unspecified punitive damages.
4. Preliminary and Permanent Injunctive Relief as the Court deems applicable.
5. Attorney Fees in the event when I procure an attorney.
6. Any and all legal and equitable relief the Court deems applicable.

**WHEREFORE,**

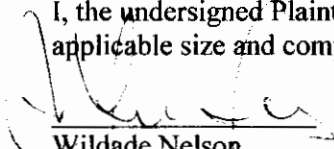
Plaintiff submits this Complaint in all Good Faith and prays for the relief sought.

Respectfully submitted,

  
Wildade Nelson  
Plaintiff pro se

**JURY DEMAND**

I, the undersigned Plaintiff, hereby request a Trial on the Merits to be heard by a Jury of applicable size and composition.

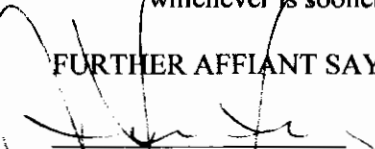
  
Wildade Nelson

**AFFIDAVIT OF INDIGENCY**

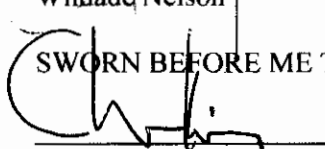
I, Wildade Nelson, under Oath and subject to Perjury, bring this case *in forma pauperis*, as I have not had substantial employment since Defendant(s) unlawfully terminated my employment.

1. I have no money in my checking account;
2. I have no savings;
3. My car was repossessed this month;
4. I have no cash on hand or friends who have enough money to initiate this Action;
5. I found a job but it is in Boston and I have no car to get to it;
6. I will pay the Court the costs of filing as soon as I get it, or at the completion of this case whichever is sooner.

FURTHER AFFIANT SAYETH NAUGHT.

  
Wildade Nelson

SWORN BEFORE ME THIS 1<sup>st</sup> DAY OF MAY, 2005

  
Christopher King  
Notary Public

My Commission Expires: 19 Feb 2008.





JS 44 (Rev. 3/99)

## CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

## DEFENDANTS

(b) County of Residence of First Listed Plaintiff  
(EXCEPT IN U.S. PLAINTIFF CASES)

Hillsborough, NH

County of Residence of First Listed  
(IN U.S. PLAINTIFF CASES ONLY)

Middlesex, MA

05-11269 NG

(c) Attorney's (Firm Name, Address, and Telephone Number)

Pro Se

Attorneys (If Known)

Peter M. Mingo

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ 1 ☐ 1 Incorporated or Principal Place of Business In This State ☐ 4 ☒ 4
- Citizen of Another State ☒ 2 ☐ 2 Incorporated and Principal of Business In Another State ☐ 5 ☐ 5
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input checked="" type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

## V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Defendants treated me differently than other employees and violated due process

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION DEMAND UNDER F.R.C.P. 23

CHECK YES only if demanded in complaint:  
JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE

DOCKET NUMBER

DATE

May 1 2005

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS1. TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY) Wildade Nelson v. Joanne McGann

2. CATEGORY IN WHICH THE CASE BELONGS BASED UPON THE NUMBERED NATURE OF SUIT CODE LISTED ON THE CIVIL COVER SHEET. (SEE LOCAL RULE 40.1(A)(1)).

       I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.X II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820\*, 830\*, 840\*, 850, 890, 892-894, 895, 950.\* Also complete AO 120 or AO 121  
for patent, trademark or copyright cases       III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.       IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.       V. 150, 152, 153.

05 - 11269 NG

3. TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 40.1(E)).

4. HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS COURT?

YES ☐NO ☒

5. DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AFFECTING THE PUBLIC

INTEREST? (SEE 28 USC 2403)

YES ☐NO ☒

IF SO, IS THE U.S.A. OR AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY?

YES ☐NO ☒

6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE 28 USC

2284?

YES ☐NO ☒7. DO ALL PARTIES IN THIS ACTION RESIDE IN THE CENTRAL DIVISION OF THE DISTRICT OF MASSACHUSETTS WORCESTERCOUNTY - (SEE LOCAL RULE 40.1(C)).YES ☐NO ☒OR IN THE WESTERN DIVISION BERKSHIRE, FRANKLIN, HAMPDEN OR HAMPSHIRE COUNTIES? (SEE LOCAL RULE 40.1(D)).YES ☐NO ☒8. DO ALL OF THE PARTIES RESIDING IN MASSACHUSETTS RESIDE IN THE CENTRAL AND/OR WESTERN DIVISIONS OF THE DISTRICT?YES ☐NO ☒

(a) IF YES, IN WHICH DIVISION DOES THE PLAINTIFF RESIDE?

9. IN WHICH DIVISION DO THE ONLY PARTIES RESIDING IN MASSACHUSETTS RESIDE?

Central

10. IF ANY OF THE PARTIES ARE THE UNITED STATES, COMMONWEALTH OF MASSACHUSETTS, OR ANY GOVERNMENTAL AGENCY OF THE U.S.A. OR THE COMMONWEALTH, DO ALL OTHER PARTIES RESIDE IN THE

CENTRAL DIVISION; YES ☐ NO ☒OR WESTERN DIVISION; YES ☐NO ☒11. ALTERNATIVE DISPUTE RESOLUTION - IS THIS CASE SUITABLE FOR ADR? IF SO, BY WHICH ADR? No.EARLY NEUTRAL EVALUATION ☐MEDIATION ☐SUMMARY JURY/BENCH TRIAL ☐MINI-TRIAL ☐OTHER ☐

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Wildade Nelson pro seADDRESS 22 Kessler Farm Drive Nashua NH 03063TELEPHONE NO. 603-880-4311